

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16087 of 2004

Between:

K. Vijayalakshmi, W/o. Upendra,
R/o. Gandhipuram, H/o. Anantharam, Mahabubabad Mandal, Warangal District.

..... PETITIONER

AND

- 1 The Joint Collector, (Civil Supplies), Warangal.
- 2 The Revenue Divisional Officer, Mahabubabad, Warangal District.
- 3 The Mandal Revenue Officer, Mahabubabad, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, more particularly a writ in the nature of CERTIORARI to call for the Records and to quash the order issued by the Revenue Divisional Officer, Mahabubabad, vide his Proceedings No. C/1360/03 dated 31-8-2004.

Counsel for the Petitioner: MR. G.DHARMA RAO

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16087 OF 2004

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ORAL ORDER :

The petitioner is the authorized fair price shop dealer of Gandhipuram, h/o. Anantharam, Mahabubabad Mandal, Warangal District. Her authorization was suspended with immediate effect by the 2nd respondent – Revenue Divisional Officer, Mahabubabad, Warangal district vide proceedings dated 31-08-2004. The said proceedings are challenged in this writ petition.

This Court having prima facie found that the impugned order which is in the nature of a final order by way of substantive punishment was passed without notice to the petitioner and without conducting any enquiry, while directing notice to the respondents by order dated 09-09-2004 granted interim suspension of the impugned proceedings dated 31-08-2004.

Heard both sides and perused the material on record.

Though the second respondent filed a counter-affidavit, nothing has been stated nor any material is produced to show that the petitioner was afforded an opportunity to rebut the allegations before passing the impugned order. Moreover, the only

allegation on which the impugned order was passed is that the petitioner is not residing in the village since a long time. The law is well settled that the suspension of authorization / licence pending enquiry cannot be made as a matter of course and that the licensing authority is bound to exercise the discretion reasonably and bona fide considering the facts and circumstances of the case. In all cases where it is possible to give an opportunity to the licensee, the licensing authority should not resort to the drastic step of suspension as an invariable rule. In the case on hand, since there is no allegation of diversion of stocks to black-market or any other grave allegation of misappropriation, I find force in the contention of the learned Counsel for the petitioner that the suspension of authorization pending enquiry is not warranted. Instead, the first respondent ought to have issued a notice and conducted an enquiry into the allegation that the petitioner is not residing in the village.

Viewed from any angle, the impugned order of suspension cannot be sustained. Accordingly, the same is set aside leaving it open to the respondents to pass appropriate orders afresh following due process of law after affording reasonable opportunity to the petitioner to explain the allegations.

Accordingly, the Writ Petition is disposed of. No costs.

28th October, 2004.

Gbs

To

- 1 The Joint Collector, (Civil Supplies), Warangal.
 - 2 The Revenue Divisional Officer, Mahabubabad, Warangal District.
 - 3 The Mandal Revenue Officer, Mahabubabad, Warangal District.
- 4.2CCs to G.P. for Civil Supplies, High Court of AP Bldgs, Hyderabad (OUT).
- 5.2CD copies